

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County

~~City~~
~~Town~~
~~Village~~

of _____ ERIE _____

Local Law No. _____ 1 _____ of the year 19____ 99

A local law _____ in relation to the right to farm in the county of Erie.
(Insert Title)

Be it enacted by the _____ ERIE COUNTY LEGISLATURE _____ of the
(Name of Legislative Body)

County

~~City~~
~~Town~~
~~Village~~

of _____ ERIE _____ as follows:

Section 1. Title. This local law shall be known as the "Erie county right to farm law".

Section 2. Legislative policy. The Erie county legislature hereby finds, declares, and determines that farming is important to Erie county because it is a major occupation within the county, providing a livelihood and employment for thousands of residents; farming remains the single-largest industry in New York state; farming provides locally produced, fresh commodities; agriculture promotes economic stability; agriculture promotes open space and promotes environmental quality; agricultural land does not increase the demand for services provided by county or local governments. In order to maintain a viable agricultural economy in Erie county, farmers must be afforded protection allowing them the right to farm. When non-agricultural land uses extend into agricultural areas, agricultural operations may become the subject of nuisance lawsuits. As a result, agricultural operations are sometimes forced to cease operations or are discouraged from making investments in farm improvements.

It is the policy of the county to reduce the loss of agricultural resources by limiting the circumstances under which agricultural and residential purposes may conflict and to allow agricultural practices inherent to and

(If additional space is needed, attach pages the same size as this sheet, and number each.)

necessary for the business of farming to proceed and be undertaken free of unreasonable and unwarranted interference or restriction.

The county legislature finds, declares and determines that chapter 797 of the laws of 1992 provides an important foundation for achieving the right to farm protection sought in Erie county and that in order to address the unique circumstances facing agriculture in Erie county, it is necessary to provide for more comprehensive local right to farm protection.

Section 3. Definitions. As used in this local law, the following terms shall have the following meanings:

- a. "Agricultural practices" shall mean all activities conducted by a farmer on a farm to produce agricultural products and which are inherent and necessary to the operation of a farm including, but not limited to, the collection, transportation, distribution, storage and land application of animal wastes; storage, transportation and use of equipment for tillage, planting, harvesting, irrigation, fertilization and pesticide application; storage and use of legally permitted fertilizers, limes and pesticides all in accordance with local, state and federal law and regulations and in accordance with manufacturers' instructions and warnings; storage, use and application of animal feed and foodstuffs; construction and use of farm structures and facilities for the storage of animal wastes, farm equipment,

pesticides, fertilizers, agricultural products and livestock, for the processing of animal wastes and agricultural products, for the sale of agricultural products, and for the use of farm labor, as permitted by local and state building codes and regulations; including construction and maintenance of fences and lanes;

- b. "Agricultural products" shall mean those products as defined in subdivision 2 of section 301 of the agriculture and markets law;
- c. "Farm" shall mean the land, buildings and machinery usable in the production, whether for profit or otherwise, of agricultural products;
- d. "Farmer" shall mean any person, organization, entity, association, partnership or corporation engaged in the raising of crops, or the raising of livestock or livestock products as defined in subdivision 2 of section 301 of the agriculture and markets law, or the business of agriculture, whether for profit or otherwise, including the cultivation of land, the raising of poultry, fish, or fur-bearing animals, the harvesting of timber or the practice of horticulture, aquaculture, apiculture or viticulture;
- e. "Generally accepted agricultural practices" shall mean those practices which are lawful, customary, reasonable, safe and necessary to the industry as they pertain to the practices listed in subdivision a of section 3 of this local law.

Section 4. Right to farm declaration.

- a. Farmers, as well as those employed, retained or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within Erie county at all such times and all such locations as are reasonably necessary to conduct the business of agriculture. For any agricultural practice, in determining the reasonableness of the time, place and methodology of such practice, due weight and consideration shall be given both to traditional customs and procedures in the farming industry as well as to advances resulting from increased knowledge and improved technologies.
- b. Agricultural practices conducted on farmland shall not violate the public policy of Erie county if such agricultural practices are: (i) reasonable and necessary to the particular farm or farm operation; (ii) conducted in a manner which is not negligent or reckless; (iii) conducted in conformity with generally accepted agricultural practices; (iv) conducted in conformity with all local, state and federal laws, ordinances and regulations; (v) conducted in a manner which does not constitute a threat to public health and safety or cause injury to health and safety of any person; and (vi) conducted in a manner which does not unreasonably obstruct the free passage or use of navigable waters or public roadways.

- c. Nothing in this local law shall be construed to prohibit an aggrieved party from recovering damages for bodily injury or wrongful death due to negligence or recklessness.

Section 5. Real Property Sale Disclosure Notice.

- a. When any purchase and sale contract is presented for the sale, purchase, or exchange of residential real property located within the county of Erie, the contract of sale shall include a disclosure notice, which states the following:

It is the policy of Erie county to conserve, protect and encourage the development and improvement of agricultural land for the production of food and other products, and also for its natural and ecological value. This disclosure notice is to inform prospective residents that farming activities occur within Erie county. Such farming activities may include, but not be limited to, activities that cause noise, dust, fumes, odors, smoke, insects, operation of machinery during any hour of the day or evening, storage and disposal of plant and animal waste products, and the application of fertilizers, soil amendments, and pesticides by ground or aerial spraying or other method. Property owners and residents of Erie county should be aware that farmers have the right to

undertake generally accepted practices and one should expect such conditions as a normal and necessary aspect of living in an agricultural area.

The failure to include such disclosure notice shall not affect the validity of such purchase and sale contract.

Section 6. Severability. If any clause, sentence, paragraph or section of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such adjudication shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or section thereof directly involved in the proceeding or action in which such adjudication has been rendered.

Section 7. Review committee. No later than December 31, 2000, the chairman of the Erie county legislature shall appoint and convene a review committee to evaluate this local law. The review committee shall be comprised of a cross-section of the community that will include, but not be limited to representatives of the legislature and other appropriate representatives. The review committee shall provide the legislature with its findings and recommendations with respect to this local law no later than the first day of July 2001.

Section 8. This local law shall be effective the first day of January 2000.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 1999 of the (County)(City)(Town)(Village) of ERIE was duly passed by the ERIE COUNTY LEGISLATURE on January 21 1999, and was (approved)(~~not approved~~)(~~repassed after~~ ~~disapproval~~) by the COUNTY EXECUTIVE and was deemed duly adopted on February 4, 1999, in accordance with the applicable provisions of law.
(Name of Legislative Body) (Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body) (Elective Chief Executive Officer*)

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body) (Elective Chief Executive Officer*)

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

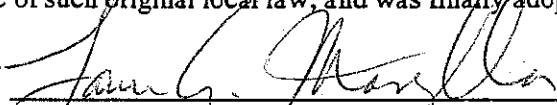
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 19____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 19____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph-----2-----, above.


Clerk of the County legislative body, City, Town or Village Clerk,
or officer designated by local legislative body.

(Seal)

Date: February 16, 1999

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF ERIE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.


Signature

1st Assistant County Attorney

Title

County
~~City~~ of ERIE
~~Town~~
~~Village~~

Date: February 16, 1999